

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Ekoko K. Avoki; Francisco K. Avoki,)	C/A No. 0:17-1141-SAL-PJG
)	
Plaintiff,)	
)	
v.)	
)	ORDER
City of Chester SC; Police of Chester SC;)	
PTL Covington; Doe I-XXX,)	
)	
Defendants.)	
)	

The self-represented plaintiffs, Ekoko K. Avoki and Francisco K. Avoki, filed this civil rights action *in forma pauperis* under 28 U.S.C. § 1915. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.) for an order on the plaintiffs' motions to lift the stay. (ECF Nos. 440 & 445.) On March 6, 2020, the court granted the defendants' motion for summary judgment as to the plaintiffs' Fourteenth Amendment claim but stayed the plaintiffs' Fourth Amendment and retaliation claims pending the ultimate termination of Ekoko Avoki's purported state prosecution in the City of Chester Municipal Court for driving without insurance. (ECF No. 403); see generally Wallace v. Kato, 549 U.S. 384, 393-94 (2007) ("If a plaintiff files a false-arrest claim before he has been convicted (or files any other claim related to rulings that will likely be made in a pending or anticipated criminal trial), it is within the power of the district court, and in accord with common practice, to stay the civil action until the criminal case or the likelihood of a criminal case is ended.") (citing Heck v. Humphrey, 512 U.S. 477, 487-88 n.8 (1994)). The court further ordered the plaintiffs to file a status report "detailing the activity" in Ekoko Avoki's state prosecution. (ECF Nos. 415 & 437.) In light of the defendants' production of a disposition sheet from the City of Chester Municipal Court showing

that Ekoko Avoki's state prosecution is still pending¹ (ECF No. 448-2 at 1), the plaintiffs' motions to lift the stay are denied.

Because Ekoko Avoki's driving without insurance charge remains pending, **all parties** are directed to provide a status report about the prosecution of that charge by **August 1, 2021** that must include, at a minimum, (1) documentation showing the status or disposition of the charge, (2) a certification that the parties or their legal representatives contacted the prosecutor for an update on the charge's status, and (3) an explanation of the circumstances causing the delay in the prosecution of the charge. **Failure to comply with this order may result in sanctions.**

IT IS SO ORDERED.

April 13, 2021
Columbia, South Carolina


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

¹ The plaintiffs submitted evidence that Ekoko Avoki has other matters pending in the Chester County *Magistrate* Court, which is not the court where her driving without insurance charge is pending. (ECF No. 445-1 at 1.)